



# PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (June 2004)**

(Implements RCW 34.05.310)

Do **NOT** use for expedited rule making

**Agency:** Department of Ecology A.O. 04-13

**Subject of possible rule making:** Pilot rule for wetland mitigation bank certification.

**Statutes authorizing the agency to adopt rules on this subject:** RCW 90.84 RCW Wetland Mitigation Banking directed the department to develop rules on the certification of wetland mitigation banks.

**Reasons why rules on this subject may be needed and what they might accomplish:** The 2004 legislature directed the department to conduct a test of the wetland banking certification rule. The pilot rule project is slated to operate for one year. At the end of the year, the department may determine that additional time is needed to test the draft rule.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** Federal agencies involved in authorizing and approving wetland mitigation banks include the US Army Corps of Engineers, EPA, USFWS and NOAA Fisheries. State agencies that may be involved with wetland bank approvals include the departments of Fish and Wildlife and Natural Resources. Local governments will be involved in the state certification process for wetland banks located within their jurisdiction. The Corps of Engineers will participate as an advisor for the pilot project on behalf of the federal partners. WDNR has been invited to participate as an advisor for the pilot rule. Local governments participating on bank review teams will receive updates on the pilot rule and given opportunities to provide input.

**Process for developing new rule (check all that apply):**

☐ Negotiated rule making

☒ Pilot rule making

☐ Agency study

☒ Other (describe) The pilot rule will use the draft negotiated rule language for the wetland bank certification program which was filed for public comment in January 2001 (draft chapter 173-700 WAC)

**How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:**

Information will be available on the agency's website and by email distribution list.

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**DATE**

7/13/04

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Director

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